

It is understood that claims 3-38 as drawn to the non-elected invention, will remain pending, albeit withdrawn from further consideration in this application.

REMARKS/ARGUMENTS

The Examiner has objected to claims 1, 18, 29, 30, 33, 34 and 38 as each allegedly recites an improper Markush grouping. The Examiner states (page 2 of the Office Action mailed on January 23, 2003) that claims 1, 18, 29, 30, 33, 34 and 38 are each improper Markush claims because the plurality of amino acid sequences recited in these claims lack a common utility which is based upon a shared structural feature lacking from the prior art.

The amino acid sequences identified as SEQ ID NOS:1-6 are each fragments of the same fibronectin precursor protein. Since each of the six claimed amino acid fragments are parts of the fibronectin protein, the sequence structure of the larger "parent" fibronectin protein is considered to be a shared structural feature between SEQ ID NOS:1-6. Furthermore, since nucleotide sequences encoding the same protein are not considered by the Office to be independent and distinct inventions and are examined together (see MPEP 803.04), it follows that amino acid sequences encoding the same protein should be examined together. Additionally, the Examiner's attention is drawn to the fact that the instant application claims six short amino acid sequences, four sequences less than the ten sequences normally considered by the Office as reasonable for examination purposes.

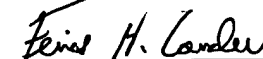
SEQ ID NOS:1-6 are identified by the instant inventors as fragments of fibronectin which are predictive of Type II diabetes. Thus, SEQ ID NOS:1-6 share a common utility as markers predictive of disease. This common utility is also known in the art as evidenced by the attached definition of fibronectin (as read from Scott & Mercer, Concise Encyclopedia: Biochemistry and Molecular Biology, Third Edition, Walter de Gruyter, Berlin, 1997, page 225) which states that enhanced levels of fibronectin fragments are characteristic of diseases with abnormally high rates of proteolysis.

Applicants have now demonstrated that unity of invention exists between the amino acid sequences of the Markush groupings recited in claims 1, 18, 29, 30, 33, 34 and 38 by showing a shared common utility (markers predictive of a disease state) and by showing shared structural feature (sequence of the "parent" fibronectin).

If the fragments of SEQ ID NOS:1-6 are found to be novel, methods limited to their use should also be novel.

Now that applicants have fully responded to the Requirement for Restriction/Election under 35 U.S.C. 121, an examination on the merits is respectfully requested.

Respectfully submitted,



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